

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.M.24437-M of 2006

Date of Decision: May 8, 2007

Prem Sabharwal

....Petitioner

Versus

Kiran Kaur

....Respondent

CORAM: HON'BLE MR. JUSTICE S. D. ANAND

PRESENT: Mr.ID Singla, Advocate for the petitioner.

JUDGMENT

The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure for quashing of the complaint dated 25.10.2005 and also the quashing of summoning order dated 17.12.2005, vide which the petitioner has been summoned by the learned Trial Magistrate to face a trial under Section 354 of the Indian Penal Code.

In so far as the quashing of the complaint is concerned, the points raised/urged on behalf of the complainant represent a defence which the complainant would perhaps like to take at the trial. That being so, it would be appropriate that those pleas are raised at the trial only, particularly in view of the fact that the defence raised would involve questions of fact which shall compulsively have to be adjudicated upon only after the parties have adduced evidence in support of their respective pleas at the trial.

In so far as the impugned order is concerned, learned counsel is not on a firmer footing when he assails it as being non-speaking in character. In fact, it is an absolutely self-contained order. The learned Trial Magistrate noticed the plea raised by the respondent – complainant, assessed the preliminary evidence in support thereof and declined to order the summoning of the petitioner-accused to face a trial under Section 376 of the Indian Penal Code. Instead thereof, the summoning of the petitioner was ordered only to face a trial under Section 354 of the Indian Penal Code. Thus, the impugned order cannot be said to be non-speaking in any sense of interpretation.

In the light of the foregoing discussion, there is no force in the plea for the quashing of the petition or for the invalidation of the impugned order dated 17.12.2005.

Dismissed.

May 8, 2007
SRM

(S. D. ANAND)
JUDGE